

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA**

**AT BECKLEY**

MARVIN STEVE MILLS,

Petitioner,

v.

CIVIL ACTION NO. 5:19-cv-00801

DONNIE AMES,

Superintendent, Mt. Olive Correctional Complex,

Respondent.

**ORDER**

Pending are the Petitioner Marvin Steve Mills's Motion for Stay and Abeyance, [Doc. 2], Respondent's Motion to Dismiss Petition as Untimely Filed [Doc. 15], and Mr. Mills's Motion for Enlargement of Time [Doc. 33]. This action was previously referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Aboulhosn filed his PF&R on June 10, 2020 [Doc. 30]. Magistrate Judge Aboulhosn recommended that the Court deny the Respondent's Motion to Dismiss Petition as Untimely Filed, deny Mr. Mills's Motion for a Stay and Abeyance, and refer the matter back for further proceedings.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) (emphasis added) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is*

*made.*”). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner’s right to appeal the Court’s order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (parties may not typically “appeal a magistrate judge’s findings that were not objected to below, as § 636(b) doesn’t require de novo review absent objection.”); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

Objections in this case were originally due on June 29, 2020 [Doc. 30]. On June 17, 2020, Mr. Mills filed a Motion for Enlargement of Time in which he requested that the deadline to file objections be extended to July 13, 2020 [Doc. 31]. On June 25, 2020, the Court granted the motion and extended the objections deadline to July 13, 2020 [Doc. 32]. The same day, the Clerk’s Office received a duplicate copy of the Motion for Enlargement of Time [Doc. 33]. Despite the extension, no objections were filed.

Accordingly, the Court **ADOPTS** the PF&R [Doc. 30], **DENIES** the Respondent’s Motion to Dismiss Petition as Untimely Filed [Doc. 15], **DENIES** the Motion for Stay and Abeyance [Doc. 2], **DENIES AS MOOT** the second Motion for Enlargement of Time [Doc. 33], and **REFERS** the matter back to Magistrate Judge Aboulhosen for further proceedings.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party herein.

ENTERED: August 28, 2020



*Frank W. Volk*  
 Frank W. Volk  
 United States District Judge